

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ePLUS INC.,)	
)	
Plaintiff,)	Civil Action No. 3:09-CV-620 (REP)
)	
v.)	
)	
LAWSON SOFTWARE, INC.,)	
)	
)	
)	
Defendant.)	

**MOTION TO STRIKE TESTIMONY OF LAWSON ECONOMIC EXPERT
JONATHAN D. PUTNAM CONCERNING AWARD OF ROYALTY
AND UNOPPOSED REQUEST FOR EXPEDITED BRIEFING**

Plaintiff, ePlus, Inc. (“ePlus”), by counsel, respectfully requests that the Court strike all testimony offered by economist Jonathan D. Putnam (“Dr. Putnam”) addressing the award of a reasonable royalty to ePlus as a sanction should Lawson be found in contempt of this Court.

This Court has already addressed the issue of awarding a reasonable royalty twice: first, before the trial of the underlying patent infringement action by striking ePlus’s damages expert and by barring use of alternative proof as a discovery sanction, and second, in connection with the post-verdict injunction proceedings by rejecting Lawson’s argument that a compulsory license measured by a Court-imposed royalty was a remedy superior to a permanent injunction. This Court’s orders are the law of the case and prevent relitigation of the royalty issue. Moreover, the Court’s reasons for rejecting a reasonable royalty apply with even greater force now than they did at the injunction hearing. For these reasons, ePlus respectfully requests that

the Court strike all portions of Dr. Putnam's report discussing a reasonable royalty and preclude Dr. Putnam from offering any opinions concerning a reasonable royalty at the contempt hearing.

Counsel for *ePlus* certifies that it has met telephonically with counsel for Lawson and that a good faith effort has been made between counsel to resolve the matters at issue.

ePlus also requests that the Court order expedited briefing of this motion. The contempt hearing is scheduled to begin on February 27, less than two weeks from now. Because of the impact this Motion will have on the parties' preparation for the hearing, *ePlus* respectfully requests that the Court resolve this motion as soon as possible. *ePlus* therefore requests that the Court order that Lawson's opposition brief be due on Thursday, February 23, and that *ePlus*'s reply brief be due on Friday, February 24. Lawson has confirmed in writing that they do not oppose this briefing schedule.

February 16, 2012

Respectfully submitted,

ePLUS, INC.

By Counsel

/s/

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Counsel for Plaintiff, ePlus, Inc.

CERTIFICATE OF SERVICE

I hereby certify that on the 16th day of February, 2012, I will electronically file the foregoing

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with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) via email to the counsel of record, and serve the via electronic mail on the following counsel:

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